

MINUTES
Crested Butte Town Council
Regular Council Meeting
December 19, 2011
Council Chambers, Crested Butte Town Hall

Mayor Aaron Huckstep called the meeting to order at 7:06 p.m. Councilmembers present: Jim Schmidt, John Wirsing, Glenn Michel, Shaun Matuszewicz, Roland Mason and David Owen. Staff Present: Town Manager Susan Parker, Town Attorney John Belkin, Town Clerk Eileen Hughes and Building and Zoning Director Bob Gillie.

APPROVAL OF AGENDA

Town Attorney John Belkin requested that an executive session for legal advice before be added to the agenda just prior to "Old Business."

Schmidt moved and Wirsing seconded to approve the agenda as amended to add an executive session for legal advice prior to "Old Business." A roll call vote was taken with Mason, Matuszewicz, Huckstep, Wirsing, Michel and Schmidt voting "Yes" and Owen voting "No." **Motion passed 6-1.**

CONSENT AGENDA

A) Approval of Minutes of December 5, 2011 Council Meeting.

Schmidt moved and Mason seconded to approve the Consent Agenda. A roll call vote was taken with all voting "Yes." **Motion passed unanimously.**

PUBLIC COMMENTS None.

STAFF UPDATES

Bob Gillie:

- The dedication of the ice rink is scheduled for December 21, 2011 at 5 p.m.
- The Town received five proposals for the Depot renovation project. Staff is reviewing the proposals and approval of a contract will be on the agenda soon for Council consideration.
- The Office for Resource Efficiency has found another grant source for implementation of water conservation measures.

Eileen Hughes:

- Sent Council an e-mail today about new e-mail addresses that will be used once the Council receives I-Pads (tablet computers).
- Council's photo will be taken sometime in January.
- Applied for a micro-grant for scanning master files in the Town's document imaging system.
- Attended a CML sponsored webinar about use of technology for Councils. The IT person from Westminster presented a case history about implementation of I-Pads for their Council.
- Followed up with the Gunnison County Housing Authority (GCHA) regarding the Gunnison Valley Housing Foundation. Those who serve on the Gunnison County Housing Authority Advisory Board usually also serve on the Gunnison Valley Housing Foundation Board.

Susan Parker:

- Staff is planning for the Alley Loop event.
- Met with Crested Butte Fire Protection District Fire Chief Rick Ems about the antennae Atmos Energy has on the Fire Hall roof.

- Is working on hiring a retreat facilitator for January 9, 2012. Council asked about the cost for a facilitator. Parker replied it can range from \$1,000 to \$13,000 and suggested that Council consider directing the Town Manager to engage a facilitator for a cost up to \$5,000. Council agreed to discuss the matter later in the meeting under "Other Business."

PUBLIC HEARINGS

A) Consideration of Application for New Hotel and Restaurant Liquor License for Mi Pura Vida, LLC D/B/A The Mexicali Grill located at 212 Elk Avenue Crested Butte, CO 81224. Principle officer of Mi Pura Vida, LLC is Scott Yost.

Mayor Huckstep read the title of the agenda item and confirmed with the Town Clerk that proper public notice of the public hearing was given. Town Clerk Eileen Hughes explained that she received a request from the Crested Butte Fire Protection District (CBFPD) late this afternoon to approve the liquor license contingent upon approval by the CBFPD due to about a fire code violation at the premises. Hughes recommended that Council approve a new Hotel and Restaurant Liquor license for The Mexicali Grill contingent upon approval of the CBFPD.

Mayor Huckstep opened the public hearing. Mexicali Grill representative Robin Yost spoke in support of the application. Mayor Huckstep closed the public hearing.

Schmidt moved and Wirsing seconded to approve the application for a Hotel and Restaurant Liquor License submitted by Mi Pura Vida, LLC D/B/A The Mexicali Grill located at 212 Elk Avenue Crested Butte, Colorado for the reasons stated in the staff report dated December 15, 2011 contingent upon approval of the Crested Butte Fire Protection District. A roll call vote was taken with all voting "Yes." **Motion passed unanimously.**

NEW BUSINESS

A) Presentation on Sixth Street Station.

Mayor Huckstep noted a letter to the Council and informational materials in the packet from Chuck Cliggett of Sixth Street Station. Huckstep said Council should listen to the presentation from Cliggett for information only given the fact the Council may be asked to vote on the Sixth Street Station project in the future and Council should not ask any questions.

Town Attorney John Belkin said he assumes that the presentation by Sixth Street Station representatives is related to the legislative matter that is before Council (i.e. affordable housing) and not the Sixth Street Station project per se because Belkin noted the Town Council could in the future hear an appeal on an issue about the project from the Board of Zoning and Architectural Review (BOZAR). Sixth Street Station Attorney Chuck Cliggett said they planned to give the Council the status of the project as it relates to the issue before the Council now (affordable housing) and whether or not their application to BOZAR was filed in a timely manner. Belkin cautioned that the presentation should not go into the specifics of the project, such as drawings or design elements.

Sixth Street Station architect Gary Hartman said he planned to provide a little history about the project and public amenities. Belkin said he would identify items during the presentation if the presenters went into matters that are now before the BOZAR.

Cliggett noted his December 9, 2011 letter to Council, which was included in the Council packet. Cliggett highlighted several points in the letter and presented background information on the Sixth Street Station application timeline. Cliggett said Sixth Station submitted an initial application 3 years ago and then pulled the application "at the suggestion of the Town." He said a new application was re-filed in

April of 2011, two months before the new Affordable Housing ordinance (Ordinance No. 7, 2011) was adopted.

Cliggett said development costs for the Sixth Street Station project were based on affordable housing fees in effect prior to the adoption of the new Affordable Housing ordinance (Ordinance No. 7, Series 2011). Cliggett said the project is being treated "unfairly and inappropriately" by the Town because the Town maintains that Sixth Street Station did not file an application in April of 2011. The attorney went on to say that a thorough application was filed in "good faith" and it's unreasonable to be treated in such an "arbitrary and capricious manner." Cliggett maintained that affordable housing linkage fees (mitigation rates) for the Sixth Street Station project will jump from \$250,000 under the old ordinance to about \$7 million under the current ordinance.

Sixth Street Station architect Gary Hartman gave a power point presentation on the project. Hartman reviewed informational material contained in the Council packets: including images of the project, project goals, community benefits and a conclusion.

Cliggett summed up the issue as whether or not the documents 6th Street Station filed in April of 2011 constitute a bona fide application. Cliggett maintained the Town is taking an unfair subjective view of the application.

Mayor Huckstep asked the Council to refrain from asking Cliggett any questions. Town Attorney John Belkin noted that the Affordable Housing Ordinance (Ordinance No. 19, Series 2011) which is an item on the agenda is legislative in nature and okay for the Council to discuss, but discussion about when the Sixth Station application was received is not a legislative question and Belkin advised Council not to discuss the matter.

One Council member said he wanted to hear the Town Attorney's view of the matter and would like an executive session placed on the next agenda. Crested Butte News editor Mark Reaman asked why the matter needs an executive session. Belkin responded that legal advice is typically discussed in executive session. Council agreed to schedule an executive session in the future for legal advice regarding Sixth Street Station's application.

B) Ordinance No. 25, Series 2011 – An Ordinance Authorizing the Execution of Refuse and Recycling Collection and Disposal Agreement with Waste Management of Colorado, Inc.

Mayor Huckstep read the title of the Ordinance. Council asked the Town Manager if the recycle bins will be bear resistant. Parker replied that she would follow up on that question. Council also asked if the recycle bins will be the property of the Town. Parker responded that during the negotiation process with Waste Management (WM) it was decided that WM will retain ownership of the recycle bins, which she prefers because WM will have the responsibility of maintaining the bins and replacing them, as necessary. Council questioned placement of a dumpster in the Chamber of Commerce parking lot due to the high visibility. Parker noted that for years the Chamber has been requesting a dumpster for their parking lot.

Wirsing moved and Owen seconded to set Ordinance No. 25 Series 2011 for public hearing on January 3, 2012.

Schmidt moved and Wirsing seconded to go into executive session for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. section 24-6-402(4) (b). A roll call vote was taken with all voting "Yes." **Motion passed unanimously.**

Council took a short break then went into executive session. Council returned from executive session at

8:57 p.m. Mayor Huckstep made the required announcement upon returning to the open meeting. No action was taken.

OLD BUSINESS

A) Ordinance No. 19, Series 2011- An Ordinance Amending And Replacing The Town's Resident Occupied Affordable Housing Requirements And Fees Contained In Chapter 16, Article 21 Of The Crested Butte Municipal Code.

Mayor Huckstep read the title of the Ordinance. The Town's Housing Consultant, Melanie Rees, said she has been an affordable housing consultant specializing in resort communities for twenty years. Rees said it's important that affordable housing programs work, survive, and result in the development of affordable housing. Rees said she's concerned about the proposed linkage fee requirements and the structure of the proposed affordable housing program. Rees recommended that Council hold another work session on the affordable housing strategic plan and fine tune the program so it will work as best as it can. Rees said the work session will help the Council decide if they want to approve the proposed affordable housing mitigation rates.

Council agreed with Rees' recommendation for another work session and asked who would develop an agenda for the work session. Town Manager Susan Parker said an agenda would be developed by staff and Rees. A council member asked that the agenda include a discussion about affordable housing mitigation for public and non-profit sector buildings. Another council member requested that discussion include whether or not credit be given to those who paid fees under Ordinance 7, Series 2011 if revisions are made to that ordinance.

Mayor Huckstep asked for comments from the public.

Sixth Street Station Attorney Chuck Cliggett said there is no argument that everyone wants an affordable housing program, but he said it the program also has to work for developers or it will not succeed. Cliggett said a small number of people spoke at the Council's work session on affordable housing, but he said those who spoke do not constitute a mandate and the positions of people the Council has not heard from also count.

Peter Maxwell, owner of Maxwell's Restaurant on Elk Avenue, noted he sent the Council a letter about affordable housing. Maxwell said he wants to put a roof top deck on his restaurant and the expansion will increase revenue and the number of his employees. Maxwell took issue with the affordable housing mitigation rates approved by Council last year. He said linkage fees have increased 4,100 percent, which will increase his free from \$5,000 (under the previous regulations) to \$90,000 not counting some decrease in that amount due to fee reductions for seasonal use.

Maxwell said his business plan now is to invest his money someplace else and he noted that he pays \$100,000 a year in sales tax and is considering a seven year exit strategy from the Town. Maxwell asked the Council to repeal the current affordable housing ordinance and bring the linkage fees back down to the former rate of \$2.00 per square foot or consider a sales tax collection vacation or put the matter to a vote of the people.

Sixth Street Station architect Gary Hartman of Sunlit Architecture, outlined five issues he has with the Town Affordable Housing Ordinance as stated in his memo to Council dated December 19, 2011, which he submitted for the record.

Crested Butte resident and business owner Arvin Ram said the proposed affordable housing program is not anti-development, but rather it's pro Crested Butte. Ram said the Council's constituency wants an affordable housing program and Council should support the plan that's been developed.

Crested Butte South resident Jennifer Hartman noted that she spoke against the affordable housing ordinance at a council work session and also at the November 21, 2011 Council meeting. Hartman said as a member of the board of directors of the Center for the Arts and a citizen she is opposed to the current affordable housing ordinance (Ordinance 7, 2011) and proposed Ordinance 19, 2011. Hartman said she was not aware that public building projects would be affected by the affordable housing ordinance until July of 2011. Hartman said she contacted Building and Zoning Director Bob Gillie and was informed that the potential fees for Center for the Arts proposed expansion project would amount to providing 10 affordable housing units plus \$105,000 or a linkage fee of \$3.7 million if no units were provided. Hartman asked why the affordable housing committee did not work with local developers in their discussions. Hartman submitted a copy of her complete comments for the record.

Crested Butte resident Margot Levy, who serves on the Town's affordable housing committee, said she supports Council's intention to continue Ordinance 19, Series 2011. Levy spoke in support of Ordinance 19, Series 2011 stating that the ordinance provides options because affordable housing units can be built or purchased by the developer. Levy said the ordinance is not "inappropriate" because the people who create the need for affordable housing units will be responsible for providing them.

Gunnison County resident Ben Somrak said he lives near the "failed" affordable housing project at Buckhorn Ranch. Somrak said he does not see the need for affordable housing now. He said there are many affordable units available on the open market and local houses are available for under \$200,000. Somrak said the proposed affordable housing ordinance may prevent development resulting in a loss of jobs. He said the affordable housing fees will drive potential developers away from town.

Crested Butte resident Billy Rankin said he lived in Crested Butte for twenty years and he rents his home. He said he would like to own a home in town someday and Ordinance 19 is a way to ensure affordable housing in the future and preserve the town.

Crested Butte resident Alan Bernholtz said a 4,150 percent increase in affordable housing fees is extreme and asked the Council to think about what it can do to encourage affordable housing and developers. Bernholtz asked the Council to be "reasonable" about the issue. Bernholtz also asked Council to consider how the town is going to "keep this community."

Mayor Huckstep noted for the record that Council received e-mails on the topic from the following individuals: Chad Reich, Crockett Farnell, Melissa Malouf-Belz, Erica Vohman, Kiki Dotzler, Carolyn Reimer, Michele Simpson, Chuck Shaw and Gail Digate.

Mayor Huckstep asked Building and Zoning Director Bob Gillie what will happen to existing projects "in the pipeline" by leaving Ordinance No. 7, Series 2011 in place for the time being. Gillie replied that there are no imminent projects right now and that affordable housing fees are not paid until a building permit is pulled. A councilmember said it's not wise to drag the issue out for a long time because people need to plan.

Schmidt moved and Wirsing seconded to continue Ordinance No. 19, Series 2011 to February 6, 2012 and to schedule a work session at 6 p.m. on January 30, 2012 on the ordinance. A roll call vote was taken with all voting "Yes." **Motion passed unanimously.**

Council took a short break.

LEGAL MATTERS

Town Attorney John Belkin:

- Recommended that the Mayor sign an engagement letter with the firm Sherman and Howard, L.L.C. to serve as the Town's bond counsel in connection with the proposed loan agreement between the Colorado Water Resource and Power Development Authority and the Town. Council agreed to direct the Mayor to sign the letter.

COUNCIL REPORTS AND COMMITTEE UPDATES

Jim Schmidt:

- The Kochevar Trails group will meet on January 11, 2012.

John Wirsing:

- The Crested Butte/Mt. Crested Butte Chamber of Commerce Board recently met with Tammy Scott who has pointed out needed clarifications to the Chamber's bylaws.

Shaun Matuszewitz:

- KBUT is celebrating its 25th birthday. Schmidt noted that the Town has supported KBUT over the years by providing space for their operations.

Aaron Huckstep:

- The Rural Transportation Authority has formed a subcommittee regarding airline guarantees.
- Recently attended a press conference in Denver regarding the USA Pro-Cycling Challenge. A symposium about the event may be held in Crested Butte.
- Gunnison County has been split into two house districts.
- The North American Ski Mountain Championships will be held at Crested Butte Mountain Resort.
- The Gunnison County broadband group is moving slowly.
- Skiing at Crested Butte Mountain Resort is pretty good (in spite of the lack of snow).

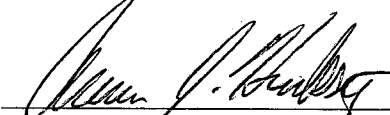
OTHER BUSINESS TO COME BEFORE THE COUNCIL

Discussion Concerning Consultant for Town Council Retreat.

Council discussed how much they would like the Town to pay for a Council retreat facilitator. Several council members indicated the Town should spend as little as possible for a facilitator. One Council member said the higher quality facilitator the Town gets the better the results will be.

Council directed the Town Manager to engage a retreat facilitator for an amount not to exceed \$3,000 or close to that amount. Council also said it was okay to change the date of the retreat to help bring down the cost.

Mayor Huckstep adjourned the meeting at 10:29 p.m.


 Aaron J. Huckstep, Mayor


 Eileen Hughes, Town Clerk

